

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NO. 5960-AG08-0718-224

IN THE MATTER OF:

Kurt P. Kinney,
Respondent.

16265 Etna Drive
Westfield, IN 46074

Type of Agency Action: Enforcement

Indiana Insurance License No. 468109

FILED
DEC 18 2008
STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

On November 19, 2008, the appointed Administrative Law Judge, John R. Kissling, Jr., filed his Findings of Fact, Conclusions of Law, and Recommended Order in the above-captioned matter.

1. The Department served Findings of Fact, Conclusions of Law, and Recommended Order and Notice of Filing of Recommended Order on Respondent by mailing the same to his home address of record.
2. The Department has complied with the notice requirements of Ind. Code § 4-21.5-3-17.
3. Respondent has not filed an objection with the Commissioner regarding the Administrative Law Judge's Recommended Order, and more than eighteen (18) days have elapsed.

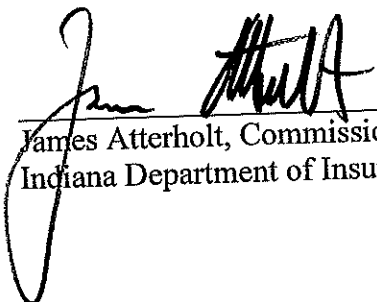
THEREFORE, the Commissioner of Insurance, being fully advised, now hereby adopts in full the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommended Order, and issues the following Final Order:

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Commissioner of Insurance:

1. Respondent's Indiana non-resident insurance producer license, #468109 is hereby immediately and permanently **revoked**.
2. Within ninety (90) days after the date of this Final Order, Respondent shall pay a fine in the amount of five thousand dollars (\$5,000.00) in addition to the one hundred dollar (\$100.00) and one thousand five hundred dollar (\$1,500.00) fines already imposed by the March 24, 2008 Final Order, for a total of six thousand six hundred dollars (\$6,600.00).

Under Ind. Code § 4-21.5-5-5, Respondent has the right to appeal this Final Order by filing a petition for judicial review in the appropriate court within thirty (30) days.

ALL OF WHICH IS Ordered by the Commissioner this 19 day of December, 2008.


James Atterholt, Commissioner
Indiana Department of Insurance

Distribution:

Kurt P. Kinney
16265 Etna Drive
Westfield, IN 46074

Robert L. Hummel, Attorney
Indiana Department of Insurance
311 W. Washington St., Suite 300
Indianapolis, IN 46204

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STATE OF INDIANA
DEPT. OF INSURANCE

Type of Agency Action: Enforcement

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND RECOMMENDED ORDER

Administrative Law Judge, John R. Kissling, Jr., having considered and reviewed all of the evidence, will now render a decision in the matter of Respondent Kurt P. Kinney ("Respondent"), which came to be heard on the 26th day of August, 2008 at 2:17 p.m. in the second floor conference room at the offices of the Indiana Department of Insurance.

The Indiana Department of Insurance was represented by counsel, Robert Hummel. Respondent was not present and unrepresented by counsel. Witnesses testified under oath, evidence was heard, and exhibits were received into evidence.

Based upon the evidence presented at said hearing, the Administrative Law Judge now makes the following Findings of Fact and Conclusions of Law, and issues his Recommended Order as follows:

FINDINGS OF FACT

1. Respondent Kurt P. Kinney has a license that was put on probation for a period of one (1) year, license number 468109.
2. Respondent was properly notified of the hearing date and time by U.S. Certified Mail #7004 1160 0000 3843 0629. (Exhibit C).
3. On March 24, 2008 Respondent entered into an Agreed Entry with the Department. The agreed entry placed Respondent's license on probation for twelve (12) months during which time the Respondent was to send quarterly reports consisting of a list of company appointments held within the quarter and a list of new business written. Respondent was to pay a fine of one thousand five hundred (\$1,500.00) dollars within ninety (90) days of the Commissioner's Final Order and a fine of one hundred (\$100.00) dollars within thirty (30) days of Commissioner's Final Order. (Exhibit A).
4. The first quarterly report and the fine payment of one thousand five hundred (\$1,500.00) dollars were both due on June 24, 2008. As of the date of this action the first quarterly report was not remitted nor was the fine paid. (Transcript pg. 8).
5. The Respondent has not paid the one hundred (\$100.00) dollar fine due on April 24, 2008 (thirty (30) days from the date of the Commissioner's final order). (Transcript pg. 8).

CONCLUSIONS OF LAW

1. The Commissioner of Insurance has jurisdiction over both the subject matter and the parties to this action.
2. This hearing was held in compliance with the Administrative Orders and Procedures Act of the Indiana Code.

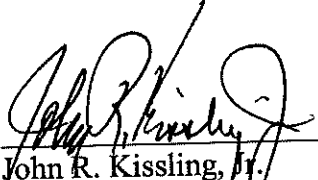
3. The Commissioner has the discretionary authority to revoke the Respondent's license to sell insurance and to fine Respondent.
4. Service of process was completed via the use of the United States Mail in compliance with the statute and due process requirements.
5. The Department has met its burden in showing by a preponderance of the evidence that Respondents conduct is contrary to the Indiana Insurance Code and that disciplinary action to include revocation of Respondent's license is in order.
6. Findings of Fact that can be adopted as Conclusions of Law are hereby incorporated herein as such.

RECOMMENDED ORDER

With the Findings of Fact and the Conclusions of Law as stated, the Administrative Law Judge now recommends to the Commissioner of Insurance the following:

1. Respondent Kurt P. Kinney license #468109 shall be permanently and immediately revoked.
2. Respondent shall pay a fine in the amount of Five thousand dollars (\$5000.00) in addition to the one hundred dollar (\$100.00) fine and the one thousand five hundred dollar (\$1,500.00) fine (Six thousand six hundred dollars (\$6,600.00) total). All amounts are due within ninety (90) days of the Commissioner's Final Order.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the
Commissioner this 19TH day of November, 2008.



John R. Kissling, Jr.
Administrative Law Judge

Distribution:

Robert Hummel, Attorney
Indiana Department of Insurance
311 West Washington Street, Suite 300
Indianapolis, IN 46240

Kurt P. Kinney
46265 Etna Dr.
Westfield, IN 46074